



COMMISSIONER'S DIRECTIVE #34

MAY 2016

(Replaces Directive #34 dated January 2007)

Effective Date: July 1, 2015 (retroactive)

SUBJECT: Excess Tax Payments Procedure for Refund and Payment of Interest

REFERENCE: IC 6-8.1-9-2

DISCLAIMER: Commissioner's directives are intended to provide non-technical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on either the department or the taxpayer. Therefore the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUMMARY OF CHANGES

Aside from nonsubstantive, technical changes, this bulletin is changed to reflect statutory changes for computing interest on refund claims made on or after July 1, 2015.

INTRODUCTION:

P.L. 242-2015 amended IC 6-8.1-9-2 concerning the procedures for when interest begins to accrue on a claim for refund. The change is effective for interest accruing on refund claims filed on or after July 1, 2015.

PROCEDURES:

When it is determined that a person paid more tax than is legally due, the department shall apply the amount of the overpayment against any outstanding liability for a listed tax as listed in IC 6-

8.1-1-1. If any excess remains after the department has applied the overpayment against other outstanding liabilities, the department shall either refund the amount to the person, or at the person's request, credit the amount to the person's future tax liabilities.

For refund claims filed before July 1, 2015, if an excess tax payment is not refunded or credited against a current or future tax liability within 90 days after the date the refund claim is filed, the date the tax was due, or the date the tax was paid, whichever is latest, the excess payment accrues interest from the date the refund claim is filed. The term "refund claim" includes an amended return that indicates an overpayment of tax.

For refund claims filed after June 30, 2015, if an excess tax payment is not refunded or credited against a current or future tax liability within 90 days after the date the refund claim is filed, the date the tax was due, or the date the tax was paid, whichever is latest, the excess payment accrues interest from the latest of:

- (1) the date the tax was due;
- (2) the date the tax payment was made;
- (3) July 1, 2015; or
- (4) the date the return was filed for the period and tax type for which the refund is sought.

For sales and use tax, the oil inspection fee, and the petroleum severance tax, the due date of the tax is December 31 of the year containing the taxable period for which the tax was paid.

In the case of refunds generated as the result of department audit or investigation, no interest will accrue unless the taxpayer files a refund claim, and then only to the extent otherwise provided above.

To illustrate the application of the statute, below are various examples:

EXAMPLE 1:

A taxpayer files an income tax return for the 2013 tax year on April 15, 2014. The return is due on April 15, 2014, and all taxes due on the return are paid on or before April 15, 2014. The taxpayer files an amended return on May 31, 2016, claiming a refund. The refund is not paid until December 1, 2016.

Interest is due from July 1, 2015. The tax was due on April 15, 2014, the tax was paid no later than April 15, 2014, and the tax return was filed on April 15, 2014. The latest of these three dates is April 15, 2014. However, because July 1, 2015, is later than that date, the July 1, 2015 date controls.

EXAMPLE 2:

A taxpayer files an income tax return for the 2013 tax year on April 15, 2016. The return was due on April 15, 2014, and all taxes due on the return were paid on or before April 15, 2014. The

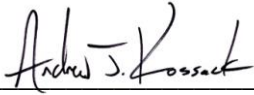
taxpayer files an amended return on May 31, 2016, claiming a refund. The refund is not paid until December 1, 2016.

Interest is due from April 15, 2016. The tax was due on April 15, 2014, the tax was paid no later than April 15, 2014, and the tax return was filed on April 15, 2016. The latest of these three dates is April 15, 2016. This date is later than July 1, 2015, so the April 15, 2016, date controls.

EXAMPLE 3:

A taxpayer pays sales tax for a tax-exempt item on August 1, 2015. The taxpayer files a refund claim on September 30, 2015. The refund is not paid until December 1, 2016.

Interest is due from December 31, 2015. The tax was due on December 31, 2015, because the special rule for sales tax controls. The tax was paid on August 1, 2015. No tax return was required on behalf of the taxpayer, so that date is not applicable. The latest of these dates is December 31, 2015. This date is later than July 1, 2015, so the December 31, 2015, date controls.

A handwritten signature in black ink, appearing to read "Andrew J. Kossack", is written over a horizontal line.

Andrew Kossack
Commissioner